

Ali P vs State of Kerala

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Court : Kerala Orders

Decided On : Jun-29-2022

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./3161/2022

Appellant : ALI P

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
WEDNESDAY, THE 29TH DAY OF JUNE 2022 / 8TH ASHADHA, 1944
BAIL APPL. NO. 3161 OF 2022 CRIME NO.12/2021 OF PATTIKKAD
FOREST RANGE OFFICE, THRISSUR PETITIONERS/ACCUSED NO.5
& 6: 1 ALI P AGED 51 YEARS S/O. KUNCHI MUHAMMED HAJI P,
PUTHUTHOTTIL HOUSE, SOUTH ANNARA, TIRUR, MALAPPURAM
DISTRICT., PIN - 676101 2 MUNSHAR AGED 39 YEARS S.O. ABDUL
KHADAR, RAYAMMARAKAR VEETIL, THRITHALLUR WEST,
VADANAPPALLY, CHAVAKKAD, THRISSUR DISTRICT; NOW
RESIDING AT EDAKAZHIYUR, NEAR SINGAPORE PALACE, WEST
BEACH ROAD, THRISSUR DISTRICT., PIN - 680515 BY ADVS.

P.T.SHEEJISH V.MAHENDRANATH RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 BY ADV PUBLIC PROSECUTOR OTHER PRESENT: PP - SRI. M.C.ASHI THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BA No.3161 of 2022 2

VIJU ABRAHAM, J.

B.A. No.3161 of 2022 Dated this the 29th day of June, 2022

ORDER

This is an application for anticipatory bail.

2. Petitioners are arrayed as accused Nos.5 and 6 in Crime

No.12 of 2021 of Pattikkad Forest Range Office, Thrissur registered alleging commission of offences punishable under Sections 2(16), 2(32), 9, 39(1)(a)(b)(d), (3)(a)(b)(c), 50, 51(1) and 57 of Wildlife (Protection) Act, 1972 and Sections 7, 24 and 55 of the Biological Diversity Act, 2002.

3. Prosecution allegation is that on 09.07.2021 accused 1 to 3

were found in unauthorised possession of 'ambergris' and they were apprehended by the forest officials near to one Kajah resort while they were engaged in its sale and thus committed the abovesaid offences.

4. It is the case of the petitioners that accused 1 to 3 are already

arrested and granted bail by this Court as per Annexure-4 order. The alleged contraband was also recovered by the prosecution. Though the petitioners moved bail applications before the Sessions Court, Thrissur, the same was dismissed in two occasions as per Annexures-1 and 2. It is only because of the reason that the 1st petitioner is brother of the 2nd accused that he has been arrayed as an accused. He is totally innocent of the allegations levelled against him. BA No.3161

of 2022 3

5. The application for bail is vehemently opposed by the

learned Public Prosecutor and contended that article seized by the forest officials is of an endangered species and is very costly in the market. It is further submitted that the source of receipt of the article is yet to be revealed and therefore custodial interrogation of the petitioners is absolutely necessary in the matter.

6. Further aspect to be noted is that earlier the petitioner moved

anticipatory bail application before the Sessions Court, Thrissur which has rejected as per Annexure-1 order and later bail application moved before this Court has also rejected as per Annexure-3. I do not find any change in circumstance so as to entertain the present application for bail. Taking into consideration all these aspects, I feel that this is not a fit case to grant anticipatory bail. It is for the petitioners to surrender and seek for bail. Sd/- VIJU ABRAHAM JUDGE cks BA No.3161 of 2022 4 APPENDIX OF BAIL APPL. 3161/2022 PETITIONER ANNEXURES

Annexure1

TRUE COPY OF THE ORDER IN CRL.M.C. NO.An

NO. 7080/2021 DATED 16.11.2021. Annexure4 THE TRUE COPY OF THE JUDGMENT IN BAIL Annexure5 TRUE COPY OF THE CUSTODY APPLICATION OF ACCUSED 1 TO 3 IN OR 12 / 2021 DATED 14.7.2021. Annexure6 THE TRUE COPY OF THE JUDGMENT IN BAIL

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